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Before the
Federal Communications Commission
Washington, D.C. 20554

Policy and Rules Concerning Interstate, Interexchange Marketplace	)	
	)	CC Docket No. 96-61
Implementation of Section 254(g) of the Communications Act of 1934, as amended	)	CCB/CPD 97-50

JOINT COMMENTS

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COMMENTS

The Office of the Governor of Guam ("Governor") and the Guam Telephone Authority ("GTA") hereby submit these comments on the Application for Review filed August 29, 1997 by IT&E Overseas, Inc. ("IT&E"). The Application seeks Federal Communications Commission ("FCC" or "Commission") review of the Memorandum Opinion and Order of the Deputy Chief of the Common Carrier Bureau dealing with IT&E's final rate integration plan.[1]

IT&E asks the full Commission to reverse the Bureau's action and endorse IT&E's rate integration plan. In particular, IT&E asserts that the Bureau erred in two respects: first, in prohibiting rates that vary based on the terminating location of the call; and second, in extending rate integration to temporary promotions and private line service.

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[1] Memorandum Opinion and Order, CC Docket No. 96-61, DA 97-1628 (July 30, 1997) ("MO&O").

I. THE BUREAU DID NOT ERR IN PROHIBITING VARIABLE TERMINATION RATES

IT&E has never been a supporter of rate integration. The Governor and GTA respect IT&E's view, recognizing that as an over-cost regional facilities-based carrier, IT&E is adversely affected by rate integration. Nevertheless, rate integration is now the law and the Bureau did not err in acting to prevent a plan that would strike at the core of rate integration.

IT&E believes the Commission erred because the language of Section 254(g) would seem to allow providers of interexchange service to charge rates that vary from state to state so long as those rates don't vary among the provider's subscribers. Thus IT&E, with subscribers only in the Commonwealth of the Northern Marianas Islands ("CNMI") and Guam can charge all of its subscribers one rate to Hawaii, another to Alaska, a third to New York, a fourth to Idaho, etc. This interpretation of the statute is, perhaps, literally possible, but it would turn the principle of rate integration on its head. It is well established that if a literal interpretation of a statute would render an absurd or even an unreasonable result, the statute must be construed so as to avoid such a result and in a manner consistent with the underlying legislative policy. See, e.g., Holy Trinity Church v. United States, 143 U.S. 457, 459 (1898); Public Citizen v. Limited States Dep't of Justice, 491 U.S. 440, 454-55 (1989); United States v. American Trucking Association, 310 U.S. 534, 543 (1967).

Second, IT&E argues that variable terminating rates have been the practice under the pre-254(g) rate integration policies. Since Congress intended Section 254(g) to incorporate then existing policies, IT&E asserts, variable termination rates pass muster. If indeed it is the case that carriers have not included some points, such as Puerto Rico and the Virgin Islands, in their tariffs on the same basis as other points, this practice should end, not be expanded.[2]

Third, IT&E maintains that a strict prohibition against rates that vary based on the call termination point is an unwarranted expansion of the rate integration policy and contrary to well-established deregulatory policies. As the Governor and GTA have pointed out before, rate integration requires a thoughtful balancing of the forces of competition and the national goal of averaged rates.[3] Rate integration itself imposes some constraints upon the flexibility of providers of interexchange services. Yet Congress has decided as a matter of national policy, that such constraints will promote the concept of nationhood and serve the overall public interest. For these reasons, the Governor and GTA believe that the Bureau did not err in prohibiting rates that vary based on the call termination location.

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[2] Apparently the Commission has recognized this point in noting that Sprint's rates for service between Puerto Rico/Virgin Islands and other U.S. points are not rate integrated. See MO&O at ¶ 18.

[3] Joint Opposition, CC Docket No. 96-61, October 21, 1996, p. 6.

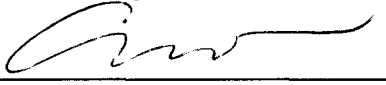
II. THE COMMISSION SHOULD CLARIFY ITS RULES CONCERNING PRIVATE LINE SERVICES AND TEMPORARY PROMOTIONS

As IT&E correctly points out, there appears to be a conflict between the Commission's exemption of private line services and temporary promotions from geographic rate averaging and the Bureau's position on IT&E's rate integration plan. In the August 7, 1996 Report and Order implementing Section 254(g), the Commission found that enforcement of the rate-averaging requirement for private line services and temporary promotions was not necessary. See Report and Order, 11 FCC Rcd 9564, 9576 (1996). Yet, the MO&O requires IT&E to integrate private line services.

To the extent that there is an inconsistency between the Commission's view and the Bureau's, the Commission should address IT&E's concerns. The Governor and GTA therefore support Commission review of this aspect of the Bureau's MO&O.

Respectfully submitted,

GOVERNOR OF GUAM



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CERTIFICATE OF SERVICE

I, Susanne M. Gyldenvand, do hereby certify that a copy of the foregoing Comments of the Office of the Governor of Guam and the Guam Telephone Authority, was sent by first class United States mail, postage prepaid, or by hand delivery or facsimile where indicated by an asterisk (*), this 28th day of October, 1997 to the following:

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